

REMARKS

Reconsideration of the present application in view of the above amendments and the following remarks is respectfully requested. Claims 1-20 and 30-54 were pending, of which claims 38-41 and 44-54 were withdrawn from consideration. Claims 1, 8-10, 34, 36, and 38-43 have been canceled without acquiescing to the rejections in the Action and without prejudice to future prosecution in a related application. Claims 55 and 56 have been added. Accordingly, claims 2-7, 11-20, 30-33, 35, 37, and 44-56 are pending. Support for the amendments to claim 2 may be found, for example, at page 3, lines 26-28, of the present application. Support for the amendments to claim 3 may be found, for example, at page 8, lines 5-16. Support for the amendments to claims 16, 17, 30, and 46 may be found, for example, in original claim 2 and at page 3, lines 26-28. Support for the amendments to claim 35 may be found, for example, in original claim 4. Support for new claim 55 may be found, for example, at page 8, lines 24 and 28. Support for new claim 56 may be found, for example, at page 8, lines 5-16, and page 9, lines 1-4. All the other claim amendments have been made to eliminate dependency on canceled claim 1 or to enter minor editorial changes. No new matter has been added.

As an initial matter, Applicants thank the Examiner for her courtesy during the interview with Applicants' representatives, Dr. David Parker and Dr. Karen Geahigan, on August 11, 2005.

Claim Rejections Under 35 U.S.C. § 103 (a)

Claims 1-17, 30-37, 42, and 43 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Thompson *et al.* (US 5,957,974) in view of Wang (US 6,379,379).

More specifically, the Action provides:

Thompson *et al.* disclose a stent graft and suggest two end of the stent graft having structure for promoting the tissue in growth such that the stent-graft can be fixed to the wall of the vessel. Although, Thompson *et al.* do not disclose the stent-graft comprising an agent that induces the *in vivo* adhesion of the stent graft to the vessel wall, attention is directed to the Wang reference which disclose an agent that induces the *in vivo* adhesion being coated at the end of the stent in order to provide a smooth surface and for treating the wall of the vessel (col. 6, line 48 to col. 7, line 67). Therefore, it would have been obvious to one having

ordinary skill in the art at the time the invention was made to employ the coating as disclosed by Wang onto the stent of Thompson *et al.* in order to provide the stent-graft with a better that reduce injury to body passages.

Other induced agents that are not disclosed in Wang reference, are obvious variants of adhesion agents as disclosed by Wang.

Applicants respectfully traverse this ground of rejection. To establish a *prima facie* case of obviousness, three basic criteria must be met. MPEP §2143. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicants submit that in the instant case, a *prima facie* case of obviousness has not been established. All the currently pending claims recite the feature that the stent graft "induces or accelerates an *in vivo* fibrotic reaction at a tissue in the vicinity of the stent graft." Such a feature has not been taught or suggested by the cited references, either alone or in combination. More specifically, Thompson *et al.*, relates to stent grafts with braided polymeric sleeve. It does not contain any discussion of using any chemical agents in promoting the adhesion of the stent grafts and vessel walls in the vicinity of the stent grafts when they are implanted into blood vessels. Wang relates to stents with smooth ends, which may be due to a coating composed of bioadhesives on the ends. Such bioadhesives are intended to minimize damages to blood vessels during the insertion of stents or to repair damages to vessel walls if damages do occur. However, Wang does not contain any discussion of using any chemical agents that induce or accelerate an *in vivo* fibrotic reaction between stents and vessel walls in the vicinity of the stents.

It appears that in the Action, the statement "[o]ther induced agents that are not disclosed in Wang reference, are obvious variants of adhesion agents as disclosed by Wang" is intended to remedy the above deficiency in the combination of the two cited references. This statement has been made either based on asserted common knowledge in the art without any

support of documentary evidence or on the Examiner's personal knowledge. Should this ground of rejection be maintained, Applicants respectfully request that either documentary evidence that supports the above statement or an affidavit pursuant to 37 CFR § 1.104(d)(2) that supports the use of the Examiner's personal knowledge be provided. Applicants note that according to MPEP §2144.04, any rejection based on assertions that a fact is well-known or is common knowledge in the art without documentary evidence to support the examiner's conclusion should be judiciously applied. This section of the MPEP further provides that any facts so noticed should be of notorious character and serve only to "fill in the gaps" in an insubstantial manner which might exist in the evidentiary showing made by the examiner to support a particular ground for rejection.

Claims 1-17, 30-37, 42, and 43 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Wang (US 6,379,379) in view of Barone *et al.* (US 5,360,443). More specifically, the Action provides:

Wang disclose a stent comprising adhesion coating for reducing the injury to the blood vessel. Although, Wang does not disclose the stent being bifurcated stent and a graft attached to the stent, it is well known in the art to provide a graft extending along the stent or between stents in order to provide a better fluid flow passage as well as to seal the aneurysm, for example, Barone *et al.* disclose a stent graft for supporting and sealing an aneurysm and the stent being bifurcated stent. Therefore, it would have been obvious to one having ordinary skill in the art to modify the stent of Wang by provide a graft and stent being branched in order to treat a site at a bifurcate area in a vascular system of a patient.

Applicants respectfully traverse this ground of rejection. First, Wang and Barone *et al.*, either alone or in combination, fail to teach or suggest all the features of the currently claimed subject matter. More specifically, as discussed above, Wang fails to teach or suggest a stent graft that "induces or accelerates an *in vivo* fibrotic reaction at a tissue in the vicinity of the stent graft" when implanted into a blood vessel. This deficiency has not been remedied by Barone *et al.* The Barone *et al.* reference relates to a specific aortic graft and the use of the graft in repairing an abdominal aortic aneurysm. It does not contain any discussion of stent grafts that induce or accelerate *in vivo* fibrotic reaction at the tissues in the vicinity of the stent grafts.

In addition, Applicants submit that no sufficient motivation to combine the cited references has been provided in the Action. The mere fact that references may be modified is not

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sufficient to establish *prima facie* obviousness. MPEP §2143.01." In addition, a statement that modifications of the prior art to meet the claimed invention would have been well within the ordinary skill of the art at the time the claimed invention was made because the references relied upon teach that all aspects of the claimed invention are not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. Appl. & Inter. 1993). See also *Al-Site Corp v. VSI Int'l Inc.*, 174 F.3d 1308, 50 USPQ2d 1161 (Fed. Cir. 1999) (holding that the level of skill in the art cannot be relied upon to provide the suggestion to combine references).

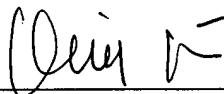
In view of the above remarks, Applicants submit that this ground of rejection under 35 U.S.C. § 103(a) has been overcome. Accordingly, Applicants respectfully request that these rejections be withdrawn.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Applicants believe that all of the claims remaining in the application are now allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,

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